



HF 252 – Fees in Probate Proceedings (LSB1816HV)

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Fiscal Note Version – New

Description

House File 252 relates to court costs charged and collected by a clerk of probate court in connection with probate matters. This bill will reduce the calculation of “gross estate value,” the current basis for calculation of probate fees under Iowa Code section [633.31](#), by subtracting the following from the gross estate value:

- 1) Joint tenancy property,
- 2) Transfers during a person’s lifetime, and
- 3) Assets payable to beneficiaries (e.g., life insurance, annuities, retirement accounts, transfer on death accounts, and payable on death accounts).

The bill also prohibits charging court costs pursuant to Iowa Code section [633.31\(2\)\(k\)](#) on any property transferred to an estate from a conservatorship that has been administered in Iowa and for which court costs have been assessed and paid.

This bill applies to estates of decedents dying on or after January 1, 2018.

Background

Under current law, Iowa Code section [633.31\(2\)\(k\)](#) provides a sliding scale fee for services performed in connection with the settlement of an estate. The probate fees collected by clerks of court are deposited in the State General Fund pursuant to Iowa Code section [602.8108](#).

Assumptions

- Given the types of assets that will be subtracted from gross estate value, it is assumed that HF 252 will reduce the applicable estate values by 50.0%. This is a conservative estimate and the minimum reduction that is likely to occur. If the reduction in estate values is greater than 50.0%, the revenue losses to the State General Fund will be greater than estimated. Probate cases filed prior to January 1, 2018, will still require payment of probate fees on the full gross estate value.
- The total of gross estate value fees paid in FY 2016 was \$11.5 million. This is a 10.0% decrease in collection from FY 2015. This decline could be partially due to attorneys and estate planners encouraging their clients to create a trust to shelter all or nearly all their assets from probate fees. It is assumed that the FY 2017 total will remain at \$11.5 million and that the collection of the probate fees will decline by 5.0% each fiscal year, starting in FY 2018.
- In FY 2016, 0.4% of the fees collected were filed and paid within the last six months of the fiscal year (January through June 2016). This analysis assumes that 0.4% of fees will be filed and paid within the last six months of FY 2018, and that those cases will be subject to the new fee provisions effective January 1, 2018.

Fiscal Impact

House File 252 will reduce revenues to the State General Fund. The following table shows the estimated probate fees to be paid between FY 2018 and FY 2021 under both current law and the proposed law:

Estimated Probate Fees Paid FY 2018 – FY 2021

	FY 2018 (Jan - June)	FY 2019	FY 2020	FY 2021
Est. Gen. Fund revenue under <u>current law</u>	\$ 5,495,443	\$ 10,373,036	\$ 9,796,756	\$ 9,220,476
Fees filed before Jan. 1, 2018	\$ 5,453,872	\$ 5,865,003	\$ 1,646,166	\$ 619,201
Fees filed after Jan. 1, 2018	\$ 20,786	\$ 2,254,016	\$ 4,075,295	\$ 4,300,638
Est. Gen. Fund Revenue under <u>proposed law</u>	\$ 5,474,658	\$ 8,119,019	\$ 5,721,461	\$ 4,919,838
Est. Total Reduction in Gen. Fund Revenue	\$ 20,786	\$ 2,254,016	\$ 4,075,295	\$ 4,300,638

The new fee provisions of HF 252 will apply to estates of decedents dying on or after January 1, 2018. As a result, there will only be a negative fiscal impact on the cases filed and paid for in the second half of FY 2018. Probate cases filed prior to the effective date will still require payment of probate fees on the full gross estate value, without the reductions in estate value provided in this bill.

It is estimated to take several years for the probate cases filed after January 1, 2018, to be closed and fees paid, and for the full fiscal impact to be known. The table below indicates the age of the probate court costs paid during FY 2016:

FY 2016 Fee Revenue

<u>Case Filing Date</u>	<u># of Cases</u>	<u>Total Amount of Fees Paid</u>
Jan - June 2016	76	\$ 43,759
2015	3900	\$ 4,965,166
2014	2,907	\$ 4,580,004
2013	752	\$ 1,162,665
2012	304	\$ 526,825
2011	160	\$ 152,389
<u>Before Jan. 1, 2011</u>	<u>335</u>	<u>\$ 94,787</u>
FY 2016 Total	<u>8,434</u>	<u>\$ 11,525,595</u>

Source

Iowa Judicial Branch

/s/ Holly M. Lyons

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the LSA upon request.